

## § 25.31

tax-determined beer which is intended for sale at a tavern operated on brewery premises, in accordance with this section. The prohibition of § 25.24 shall not apply to such tax-determined beer.

(4) Beer consumed by employees and visitors in the brewery's tavern shall be beer on which the tax has been paid or determined.

[T.D. ATF-268, 53 FR 8628, Mar 16, 1988]

### Subpart D—Construction and Equipment

#### CONSTRUCTION

##### § 25.31 Brewery buildings.

Brewery buildings shall be arranged and constructed to afford adequate protection to the revenue and to facilitate inspection by appropriate ATF officers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1389, as amended (26 U.S.C. 5402))

#### EQUIPMENT

##### § 25.35 Tanks.

Each stationary tank, vat, cask or other container used, or intended for use, as a receptacle for wort, beer or concentrate produced from beer shall:

(a) Be durably marked with a serial number and capacity; and

(b) Be equipped with a suitable measuring device. The brewer may provide meters or other suitable portable devices for measuring contents of tanks or containers in lieu of providing each tank or container with a measuring device.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

##### § 25.36 Empty container storage.

Empty barrels, kegs, bottles, other containers, or other supplies stored in the brewery will be segregated from filled containers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1389, as amended (26 U.S.C. 5411))

### Subpart E—Measurement of Beer

##### § 25.41 Measuring system required.

The brewer shall accurately and reliably measure the quantity of beer transferred from the brewery cellars

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for bottling and for racking. The brewer may use a measuring device, such as a meter or gauge glass, or any other suitable method.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

##### § 25.42 Testing of measuring devices.

(a) *General requirements.* If a measuring device such as a meter or gauge glass is used to measure beer, the brewer shall periodically test the measuring device and adjust or repair it, if necessary. The brewer shall keep records of tests available for inspection by appropriate ATF officers. Records of tests will include:

- (1) Date of test;
- (2) Identity of meter or measuring device;
- (3) Result of test; and
- (4) Corrective action taken, if necessary.

(b) *Requirements for beer meters.* The allowable variation for beer meters as established by testing may not exceed  $\pm 0.5$  percent. If a meter test discloses an error in excess of the allowable variation, the brewer shall immediately adjust or repair the meter. Adjustments will reduce the error to as near zero as practicable.

(c) *Authority to require tests.* If the appropriate ATF officer has reason to believe that the accuracy or reliability of a measuring device is not being properly maintained, he or she may require the brewer to test the measuring device and, if necessary, adjust or repair the measuring device.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

### Subpart F—Miscellaneous Provisions

##### § 25.51 Right of Entry and Examination.

An appropriate ATF officer may enter, during normal business hours, a brewery or other place where beer is stored and may, when the premises are open at other times, enter those premises in the performance of official duties. Appropriate ATF officers may make inspections as the appropriate ATF officer deems necessary to determine that operations are conducted in